

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

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CARL D. WELLS,

Petitioner,
-against-

21 CIVIL 11231 (LJL)

JUDGMENT

SUPT MARK MILLER,

Respondent.

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It is hereby **ORDERED, ADJUDGED AND DECREED:** That for the reasons stated in the Court's Opinion and Order dated March 27, 2023, Respondent's motion to dismiss the Petition is GRANTED. The Petition for habeas corpus relief is thus DENIED without prejudice to Petitioner filing a new petition after he has exhausted his state court remedies or, if the delays in Petitioner's appeal persist, to bringing a claim seeking conditional habeas relief based on a violation of Petitioner's due process rights as a result of the appellate delay. Because Petitioner has not at this time made a substantial showing of a denial of a constitutional right, a certificate of appealability will not issue. See 28 U.S.C. § 2253. The Court certifies under 28 U.S.C. § 1915(a)(3) that any appeal from the Opinion and Order would not be taken in good faith, and therefore in forma pauperis status is denied for purposes of appeal. See *Coppedge v. United States*, 369 U.S. 438, 444-45 (1962).

Dated: New York, New York

March 27, 2023

RUBY J. KRAJICK

Clerk of Court

BY: *K. Mangold*

Deputy Clerk